



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]

DECISION

FOO/142870

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 07, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on September 06, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly reduced the Petitioner's FS benefits for July and August, 2012.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Katherine May  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On June 11, 2012, the agency issued a Notice of Decision to the Petitioner informing him that his monthly FS benefits would be reduced to \$16/month effective July 1, 2012 due to an increase in his SSI and receipt of SSDI in May, 2012.

3. On August 7, 2012, the Petitioner provided the agency with a letter from the Social Security Administration approving the Petitioner's Plan for Achieving Self -Support (PASS) which allows the petitioner to set aside \$415 of his SSDI beginning May, 2012.
4. On August 13, 2012, the agency issued a Notice of Decision to the Petitioner informing him that his monthly FS benefits would increase to \$199/month effective September 1, 2012.
5. On August 7, 2012, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### DISCUSSION

When a county agency processes FS applications, reviews, and changes, the FS Handbook instructs on how to determine eligibility and allotments for the FS program. The FS Handbook sets forth the requirements for determining what income should be considered for FS allotments. Of particular relevance, it instructs workers to

Disregard income of an SSI recipient necessary to fulfill a Plan for Achieving Self Support (PASS) regardless of the source. This income may be spent in accordance with an approved PASS or deposited into a PASS account. The SSA must approve the individual's PASS in writing, identifying the amount of income that must be set aside each month to fulfill the PASS. It is the household's responsibility to report and verify that such income is necessary to fulfill its PASS in order for the income to be disregarded.

FS Handbook, §4.3.4.2.

Though SSI income necessary to fulfill a PASS plan is disregarded for FS purposes, it is the FS recipient's duty to report and verify that the income is necessary under the plan. FS Handbook, App. 4.3.4.2, no. 4 under "SSA Programs."

When an FS recipient reports a change, the agency handles it differently depending on whether the change will result in an increase or a decrease in FS. 7 C.F.R. §273.12(c). If the change will result in a decrease in FS, the agency should issue a notice informing the client of the decrease effective the next possible month. 7 C.F.R. §273.12(c)(2)(i). The agency must then verify the change prior to the next recertification.

If a person reports a change that will result in increased FS, the general rule is that the increase will take place in the month after the change is reported. 7 C.F.R. §273.12(c)(1). The FS Handbook, Appendix. 6.1.3.3, requires:

All reported changes that cause an increase in the FS benefit including person additions, increases in expenses, etc., will be effective the first of the month following the report month if required verifications are received within 10 days of the request for verification.

The FS rules require changes to be made in the month after the change is reported, not the month that the change occurs.

Changes in social security and SSI are updated automatically in the state computer system. The system added the SSI increase to petitioner's FS case, but the system does not include any means of determining if the SSI income is exempt.

I must conclude that the agency correctly handled petitioner's case. It processed the decrease in FS when it discovered the increased SSI. When the Petitioner reported the PASS plan in August, the agency correctly processed the exemption effective the next possible month. I cannot conclude that the FS agency made an error when it was not aware of the PASS plan.

### **CONCLUSIONS OF LAW**

The agency properly reduced the Petitioner's FS benefits for July and August, 2012.

**THEREFORE, it is** **ORDERED**

That the petition be, and hereby is, dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 28th day of September, 2012

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Debra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals

c: Milwaukee Enrollment Services - email  
Department of Health Services - email



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on September 28, 2012.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability